

**Title 6—DEPARTMENT OF
HIGHER EDUCATION
Division 10—Commissioner of
Higher Education
Chapter 5—Regulation of Proprietary
Schools**

PROPOSED AMENDMENT

6 CSR 10-5.010 Rules for Certification of Proprietary Schools. The department is amending sections (1), (3), (4), (5), (6), (7), (8), and (9).

PURPOSE: This amendment updates the overall administrative rule to provide schools an expedited pathway for offering short courses of instruction for personal or professional development or continuing education credit without the requirement to complete a more comprehensive and costly program review process. The amendment defines test preparation as it relates to exemption and clarifies language related to physical presence as an exemption criterion, clarifies the requirement for information disclosures pertinent to operation of a certified school, and clarifies language related to two (2) year certification, personnel qualifications, and competency-based credit.

(1) Definitions. Definitions are consistent with those set forth in the statutory authorization.

(A) “Academic progress” or “satisfactory academic progress” means the policy and procedures for periodically evaluating, measuring, and recording the extent to which each student is meeting stated course or program requirements and objectives, **including timely completion of the program**, and includes any consequences of failure to *[do so]* **comply with the policy**.

(B) “Accredited school” means a school that holds **institutional** accredited status from a national or regional accrediting agency or association recognized by the United States Department of Education **or the Council for Higher Education Accreditation** as a reliable authority concerning the quality of education or training provided by institutions of higher education.

(C) “Advertising” means any printed, published, recorded, broadcast, electronically transmitted, or publicly presented information that markets or describes the school for any purpose.

(D) “Agent” means any employee, solicitor, or other person who, for remuneration, by any means and at a place away from the school premises or site of instruction, enrolls or attempts to enroll a resident of this state in a course or courses of instruction or study offered or maintained by a proprietary school, wherever located, or otherwise holds himself/herself out to a resident of this state as representing a proprietary school for such purposes.

(E) “Board” or “Coordinating Board” means the Coordinating Board for Higher Education created by section 173.005(2), RSMo.

(F) “Branch campus” or “branch” means a geographically separate and permanent instructional facility **located in Missouri** that is derived from and controlled by its main **Missouri** campus. A branch campus may provide complete and distinct programs and employ unique or shared instructional and administrative personnel. A branch may produce and maintain its own institutional and student records.

(G) “Certificate” means any award **for successfully completing a program of instruction**, including a diploma, that does not have a degree designation.

(H) “Certificate of approval” means *[approval]* **the document issued** by the Coordinating Board *[to operate]* **indicating** a school **may operate** in compliance with this rule and the provisions of sections 173.600 through 173.619, RSMo.

(I) “Certified” or “approved” means having been granted a certificate of approval by the Coordinating Board, pursuant to section 173.604, RSMo.

(J) “Contact hour” or “clock hour” means a minimum of fifty (50) minutes of instruction or training **during a sixty (60) minute period** that is directed and supervised by an instructor or trainer.

(K) “Continuing education” means a course, module, or program of instruction no more than twenty-five (25) contact hours in length that is not portrayed or advertised as having a primarily vocational or academic objective but is designed for personal or professional development of a student and typically results in the awarding of a certificate of attendance and may carry continuing education credit.

[K] (L) “Continuous operation” means a certificate of approval to operate in Missouri that has been maintained without lapse, suspension, or revocation.

[L] (M) “Course” means a defined and unique educational offering with discrete objectives and requirements in support of a program, *[whether conducted in person, by mail, or through any telecommunication medium]* **regardless of how the offering is delivered.**

[M] (N) “Credit hour” means the unit of quantitative measurement of educational attainment earned in a course, generally stated in semester, trimester, or quarter hours. The basis of measuring a credit hour shall be defined in accordance with the standards of a school’s accreditor or, in the absence of accreditation, defined to be consistent with the definition of such generally employed at institutions of American higher education, as determined by the department.

[N] (O) “Degree” means any award, earned or honorary, conferred with the designation of associate, baccalaureate, master, professional or professional development, specialist, or doctorate.

[O] (P) “Department” means the Department of Higher Education created by section 173.005(1), RSMo.

[P] (Q) “Exempt” means having been determined to be a school or instructional program eligible for release from the provisions of sections 173.600 to 173.619, RSMo, pursuant to section 173.616, RSMo.

[Q] (R) “Extension site” or “extension” means any geographically separate and either temporary or permanent instructional facility located within reasonable geographic proximity to a main or branch campus, that is entirely auxiliary to and operated by a main or branch campus. An extension site shall not provide distinct programs, employ significant administrative personnel, or maintain its own institutional or student records.

[R] (S) “Formal grievance” means a complaint against a certified school that is submitted on forms provided by the department and completes the review process through the final disposition.

[S] (T) “Grievance policy” means the **school’s** internal procedures through which a student may formally make a complaint regarding actions of a school and a school may make its response to such a complaint.

[T] (U) “Lapse” means a certificate of approval to operate that has not been renewed by the deadline established by the department.

[U] (V) “Main campus” means the primary **Missouri** instructional facility of a school, as so designated by the school. For accredited schools, the main campus is the one to which accreditation is directly conferred and from which other campus locations derive their accreditation.

[V] (W) “New program” means an academic or vocational educational offering not previously approved by the department or a current offering delivered in a format not previously approved by the department. New program shall also mean an approved academic or vocational offering whose components, including but not limited to program length, required hours, and/or content, have been modified by fifty percent (50%) or more.

[W] (X) “Operate” means to establish, keep, or maintain any facility at a location or locations in this state where, from, or through which education is offered or given and shall include contracting with any person, group, or entity to perform any such act.

[X] (Y) “Person” means any individual, corporation, partnership, association, or business entity of any kind or description.

[Y] (Z) “Physical presence” means any person or location within the state of Missouri where, from, or through which a school operates for the purpose of conducting an activity relating to postsecondary education, including the granting of certificates or degrees, or for the purpose of recruiting students. Location is defined to include any address, physical site, electronic device, or telephone number within or originating from within the boundaries of the state of Missouri. Physical presence shall also mean a formally scheduled instructional interaction organized by or through a school taking place between two (2) or more students and/or instructors within the state of Missouri. **Physical presence does not include any activity conducted by a school based outside of Missouri covered by the provisions of the State Authorization Reciprocity Agreement.**

[Z] (AA) “Program” or “program of instruction” means a complete academic or vocational educational offering which fulfills the requirements for the awarding of a certificate or degree. A program may consist of one (1) or multiple courses, and shall, upon satisfactory completion, fulfill an academic, occupational, or other training objective.

[AA] (BB) “Proprietary school” or “school” means any person not specifically exempted in the authorizing statute which offers or maintains on either a profit or not-for-profit basis within the state of Missouri a course or courses of instruction or study through classroom instruction or correspondence, or which grants certificates or earned or honorary degrees.

[BB] (CC) “Public institution” means a postsecondary educational institution established by provisions of Missouri constitutional or statutory law or established by the voters of the district in which it is located, which is funded fifty percent (50%) or more of its operating costs from public funds; which is governed by a body appointed by the Governor and approved by the Senate, or selected by the voters of the district in which it is located and which operates on a not-for-profit basis.

[CC] (DD) “Religious degree” or “religious program” means any degree or program with a specific theological, biblical, divinity, or other religious designation. Religious degrees or programs shall not include those with a designation that generally denotes a secular degree, including, but not limited to, associate, baccalaureate, master or doctor of arts, science, humanities, philosophy, law, business, education, medicine, and other designations of non-religious disciplines.

[DD] (EE) “Substantive change” means a modification of twenty percent (20%) or more of a program’s components including, but not limited to, program length, required hours, and/or content.

[EE] (FF) “Transcript” or “transcript record” means a student’s permanent educational record.

(GG) “Test prep” or “test preparation course” means a course that is solely designed to enhance performance on an examination leading to occupational eligibility or admission to a postsecondary institution. The Coordinating Board shall deem test-prep courses or programs offered for postsecondary credit or advertised as providing postsecondary credit as proprietary schools pursuant to section 173.602, RSMo.

(2) Jurisdiction.

(A) This rule is applicable to all proprietary schools requiring a certificate of approval to operate under the provisions of sections 173.600 through 173.619, RSMo, or any person requiring an exemption from the provisions of sections 173.600 through 173.619, RSMo, by the Coordinating Board under section 173.616.2, RSMo. Any person establishing a physical presence in Missouri to operate a school, to instruct students, or to recruit students is subject to this rule. The Coordinating Board shall also deem the act of a school to grant degrees or certificates as establishing that such school engages in education and instruction and is required to obtain a certificate of approval or exempt status.

(B) After receiving a certificate of approval to operate, the school shall—

1. Operate in compliance with the standards and procedures established in this rule; and
2. Maintain institutional and student data and information, as stipulated in this rule, and make such records available for department examination.

(C) No proposed new school may operate without the issuance of a certificate of approval to operate. Certificates of approval shall be issued or denied on the basis of required estimates, assurances, or verifications of planned operations as provided in the application. Evidence that a new school is willfully failing to implement the estimates, assurances, or verifications shall be deemed grounds to revoke or suspend the certificate of approval to operate or to place the school on probation. After initial certification, application for renewal of the certificate of approval shall be on the same basis as for existing schools.

(D) Without either holding a certificate of approval to operate or being exempted from certification, any school or any agent acting in such school’s behalf is prohibited from:

1. Entering into any signed contract or agreement for enrollment in any course or program of instruction between the school or any agent acting in behalf of the school and any potential or prospective student;
2. Receiving any financial payment or promise of payment from any potential or prospective student;
3. Announcing, advertising, or otherwise conveying the beginning of classes or instruction or any date for the opening of the school, or otherwise soliciting students for enrollment;
4. Commencing any instructional activity;
5. Making any claim or reference to having an approved, certified, or pending applicant status with the Coordinating Board or Department of Higher Education or the state of Missouri; and/or
6. Giving, awarding, or granting any certificates or degrees as defined in the authorizing statute or this rule.

(E) No school shall advertise or purport to be a Missouri school or to have a Missouri presence, or use a Missouri address on its letterhead or other publications, unless that school actually operates in this state and is either duly exempted from or certified under the provisions of this rule.

(F) Failure to maintain compliance with standards, procedures, or records maintenance and availability requirements shall be grounds for the revocation or suspension of a certificate of approval to operate or for placing a school on probation.

(3) Exemption.

(A) Schools That Shall Be Exempt by Statute. The following schools, training programs, and courses of instruction shall be exempt from the provisions of sections 173.600 to 173.619, RSMo, and formal application for that exemption is waived:

1. A public institution;
2. Any college or university represented directly or indirectly on the advisory committee of the Coordinating Board for Higher Education as provided in subsection 3 of section 173.005, RSMo;
3. An institution that is certified by the board as an “approved private institution” under subdivision (2) of section 173.1102, RSMo; and
4. A not-for-profit religious school that is accredited by the American Association of Bible Colleges, the Association of Theological Schools in the United States and Canada, or a regional accrediting association, such as the North Central Association, that is recognized by the Council on Postsecondary Accreditation or its successor organization and the United States Department of Education.

(B) Schools That Shall Be Exempted by the Coordinating Board. Upon application, on forms provided by the department and documentation of eligibility, as provided in this rule, the Coordinating Board shall exempt schools, training programs, and courses of instruction from the provisions of sections 173.600 through 173.619, RSMo.

1. Only schools that maintain a physical presence in Missouri are eligible to seek exemption under this rule.

[1] 2. Once granted, a status of exemption shall be subject to periodic review. As determined by the department, continued eligibility for exemption shall be demonstrated and verified in the application for exemption and is subject to review and further determination by the department at any time. The department may withdraw exemption status for proper cause, such withdrawal constituting a denial of exemption, or require a subsequent application for exemption.

[2] 3. Decision on the application for exemption shall be furnished to the school in writing. If exemption is denied, the basis for the denial shall be stated and the notice will be accompanied by forms on which to submit application for certification to operate. Denial of exemption may be appealed to the Administrative Hearing Commission.

4. The exempted school must be the entity awarding the degrees or certificates and must establish the educational records of students who enroll in a program of study.

[3] 5. Schools shall be exempt under the following categories:

A. Religious exemption. A not-for-profit school owned, controlled, and operated by a bona fide religious or denominational organization that offers no programs or degrees and grants no degrees or certificates other than those specifically designated as religious degrees or programs shall be exempted upon satisfactory evidence of—

(I) The identity and bona fide nature of the religious denomination or organization, together with documentation of ownership, control, and operation of the school by the religious denomination or organization; and

(II) The identity and designation of all degrees or certificates offered, including both honorary and earned.

B. Eleemosynary exemption. A not-for-profit school owned, controlled and operated by a bona fide eleemosynary (charitable) organization that provides instruction with no financial charge to its students and at which no part of the instructional cost is defrayed by or through programs of governmental student financial aid, including grants and loans, provided directly to or for individual students shall be exempted upon satisfactory evidence of—

(I) The identity and bona fide nature of the eleemosynary organization; and

(II) The sources of income through which instructional costs are defrayed.

C. Nonvocational exemption. **Personal improvement seminars and courses of instruction less than twenty-five (25) contact hours in length intended solely to enhance performance on examinations leading to occupational eligibility or admission to postsecondary education are considered avocational for purposes of this exemption category.** A school that offers instruction only in subject areas that are primarily for avocational or recreational purposes (as distinct from courses that are creditable toward a certificate or degree or that teach employable or marketable knowledge or skills) shall be exempted upon satisfactory evidence that the school does not—

(I) Advertise its instruction as having occupational objectives or as conveying employable or marketable skills or knowledge;

(II) Advertise or maintain placement services or cite placement rates; and

(III) Grant any form of certificate or degree other than a certificate of course completion **or certificate of attendance.**

D. Employer exemption. A course of instruction, study, or training program sponsored by an employer for the training and preparation of its own employees shall be exempted upon satisfactory evidence that—

(I) No form of certificate or degree, or credit toward a certificate or degree, is granted other than a certificate of course completion **or certificate of attendance;**

(II) The training or instruction is available exclusively to employees of the sponsoring employer;

(III) The training or instruction is provided at no cost to the employee;

(IV) The training or instruction is not the primary activity of the employer; and

(V) If the training or instruction is provided through a second party school or other entity, a contract or agreement between the employer and the other entity shall exhibit that the training or instruction will be provided in compliance with parts (3)(B)3.D.(I)–(IV) of this rule.

E. Professional organization exemption. A course of study or instruction conducted by a trade, business, or professional organization with a closed membership where participation in the course is limited to bona fide members of the trade, business, or professional organization shall be exempted upon satisfactory evidence that—

(I) No form of certificate or degree, or credit toward a certificate or degree, is granted other than a certificate of course completion **or certificate of attendance;**

(II) The organization's membership is limited to bona fide members of the trade, business, or profession;

(III) The training or instruction is available exclusively to bona fide members of the trade, business, or professional organization; and

(IV) If the training or instruction is provided through a second party school or other entity, a contract or agreement between the organization and the other entity shall exhibit that the training or instruction will be provided in compliance with parts (3)(B)3.E.(I)–(III) of this rule.

F. State examination preparation exemption. A course of study or instruction for persons in preparation for an examination given by a state board or commission where the state board or commission approves that course and school shall be exempted upon satisfactory evidence that the state board or commission has approved the course and school.

G. Students primarily under age sixteen (16) exemption. A school or person whose clientele are primarily students aged sixteen (16) or under shall be exempt upon satisfactory evidence that students enrolled are primarily under the age of sixteen (16). Primarily, at a minimum, shall mean seventy-five percent (75%). The Coordinating Board shall exempt, without application, all pre-school, Montessori, and elementary and secondary schools subject to the standards of the Missouri Department of Elementary and Secondary Education. If, however, any private school with clientele primarily under the age of sixteen (16) offers any postsecondary degree or certificate, it shall not be eligible for this exemption.

H. Licensed schools exemption. A school that is otherwise licensed and approved under and pursuant to any other licensing law of this state shall be exempted upon satisfactory evidence that the school has been lawfully licensed or approved by another Missouri state agency. A state certificate of incorporation shall not constitute licensing or approval for the purposes of eligibility for this exemption. A school that offers programs of instruction other than those included within the license or approval of another state agency shall not be eligible for this exemption.

(C) Any school, training program or course of instruction exempted herein may elect by majority action of its governing body or by action of its director to apply for approval of the school, training program, or course of instruction under the provisions of sections 173.600 to 173.619, RSMo. However, any such school, if granted a certificate of approval to operate, shall comply with this rule as though such school were nonexempt. An exempted school, voluntarily seeking and receiving certification, may revert to exempt status upon application for exemption and approval by the Coordinating Board but the board shall not grant exemption if the school is deemed in noncompliance with certification standards at the time of the application and reversion to an exempt status shall not relieve the school of any liability for indemnification or any penalty for noncompliance with certification standards during the period of the school's approved status.

(4) Application for Certificate of Approval to Operate.

(A) Application for certification shall be submitted on application forms furnished by the department and must be submitted on or prior to the expiration date with which the forms are stamped when distributed. Decision on an application for certification shall be made on the basis of—

1. A complete and accurate disclosure of all material facts pertinent to the standards contained in this rule and authorizing statute that is not deceptive or misleading by commission or omission as determined by the department;

[1] **2. Compliance with the standards set forth in this rule and the authorizing statute;**

[2] **3. Compliance with the instructions for fully completing and submitting the application forms and exhibits;**

[3] 4. Information, documentation, or verification submitted or received from any source in supplement to the pending application;

[4] 5. Research, information, and other documentation collected by the department or by independent experts or consultants; and

[5] 6. Site visitation and/or personal interview as deemed appropriate by the department.

(B) The department may give faith and credit consideration to accreditation by a national or regional accrediting association recognized by the United States Department of Education and to approval by other governmental agencies, including certification or licensing approval by another state. The department may waive any part of the certification procedure for reason of such accreditation or approval.

(C) The department may waive any part of the certification procedure in any instance where such procedure is deemed by the department to be unnecessary or inappropriate for a given school applicant.

(D) The submission of applications should allow adequate lead time prior to the applicant's planned date for starting school operations. The applicant's planned start date shall not normally be a consideration for the time frame for decision on an application. Incomplete or inaccurate applications may be returned to the applicant for resubmission. Failure of the applicant to respond in a timely manner to requests for supplementary information or for resubmission of the application may result in the assessment of a late fee and/or denial of certification to operate.

(E) Annual Recertification.

1. Certificates to operate shall be issued for a maximum of a one- (1-) year period, and schools must submit application and be certified annually, **unless the school meets eligibility requirements for a two (2) years certificate as provided in this rule.**

2. The annual certification year shall be from July 1 to June 30.

3. Schools initially certified shall be certified from the date of issuance of the certificate of approval to operate to the end of the **current** certification year, June 30.

4. The closing date for the submission of applications for annual recertification shall be the March 15 immediately preceding the beginning of the certification year, and, contingent upon a school submitting an acceptable application on or prior to that closing date, a school's certification status shall not lapse in the event a recertification decision is delayed past the expiration of the then current certification year.

5. Failure to submit **an annual or biennial recertification** application by the prescribed closing date shall be grounds, without other considerations, for the assessment of a late fee and/or denial of a certificate of approval to operate for the next certification year.

6. Failure to completely and accurately disclose all material facts of the school's operation pertinent to the standards contained in this rule and the authorizing statute shall be grounds for denial of a certificate of approval to operate.

(F) Biennial Recertification.

1. Schools that meet eligibility criteria may request a certificate of approval to operate that is valid for a two- (2-) year period. To be eligible for a biennial certificate of approval, a school must—

A. Be in continuous operation for a period of no less than five (5) years;

B. Maintain a location or locations in Missouri where, from, or through which education is offered;

C. Hold current institutional accreditation from a national or regional accrediting association recognized by the United States Department of Education **or the Council for Higher Education Accreditation** and have no current disciplinary actions such as warnings, probation, show cause or other negative actions from the accreditor, meaning any requirement imposed by an accrediting agency in response to a violation of accreditation criteria that requires a response by the institution or that results in the need for a follow-up visit by the accrediting commission;

D. For schools currently participating in Title IV, currently maintain the general standards of financial responsibility as outlined by the United States Department of Education's current Federal Student Aid Handbook and its successor publications;

E. Have no findings from the school's most recent department site visit that have not been satisfactorily resolved within sixty (60) days of formal notification;

F. Have not been placed in a probationary status, within the previous five (5) years, by the department that has not been resolved within the time frame provided by the probation notice;

G. Have no formal grievance in the five (5) years prior to application for biennial recertification that the department has officially determined constituted a violation of certification standards;

H. Maintain an official cohort default rate *[of no more than five percent (5%)]* **that is at least five percentage points** below the official threshold rate published by the United States Department of Education. **If, during the initial year of a two-year certificate of approval, the school's official published cohort default rate exceeds the above threshold, the school will be required to return to eligibility by the next annual official publication or be identified as failing to maintain eligibility criteria for a two-year certificate of approval;** and

I. Have not added more than one (1) new branch during the most recent term of biennial recertification granted by the department.

2. Failure to maintain eligibility criteria will result in *[rescission of the biennial recertification]* **the school deemed ineligible to renew the two-year certificate of approval. [Schools will be issued a certificate that must be renewed annually.] Schools will be notified by the department of the loss of eligibility and will be required to renew the certificate of approval on an annual basis.** Schools may not reapply for biennial recertification for two (2) years from the date of notification by the department and must meet all eligibility criteria.

3. A school granted a biennial certificate of approval must annually submit to the department—

A. An annual certification fee;

B. Verification of the security deposit; and

C. Other data as determined by the department to be necessary to administer, supervise, and enforce the provisions of sections 173.600 to 173.619, RSMo.

(G) Temporary Certification. On decision of the department, a certificate of approval issued to an applicant school or to a school applying for recertification may be issued as a temporary certificate of approval. The effective date of a temporary certificate of approval shall not exceed sixty (60) days. In instances other than a temporary certificate of approval issued for reason of a change of school ownership, the reasons for issuance of the temporary certificate of approval shall be specified by the department. At the termination of the temporary certificate of approval—

1. A temporary certificate of approval may be reissued for one (1) additional period not to exceed sixty (60) days; or

2. A certificate of approval for the remainder of the then current certification year may be issued.

(H) Certification Fee. No certificate of approval to operate shall be issued except upon payment of the prescribed certification fee.

1. The certification fee shall be computed on the basis of \$.0013 per one (1) dollar of net tuition and fees income (excluding refunds, books, tools, and supplies), with a maximum of five thousand dollars (\$5,000) and a minimum of five hundred dollars (\$500) per school. Tuition and fees for schools that operate at two (2) or more locations within Missouri may be reported separately or be combined for all locations for purposes of computing the certification fee. The certification fee shall be computed on the basis of data submitted by the institution, subject to verification by the department.

2. The certification fee for a school upon initial certification to operate shall be computed on the basis of the estimate given in the application of the net tuition income for the first year of operation, except that the fee shall not be less than the minimum of five hundred dollars (\$500). The full initial certification fee shall be assessed whether the initial certification is for an entire or partial certification year.

3. The certification fee requirement for a branch campus operated in Missouri by an out-of-state school shall be computed solely on the basis of applicable tuition and fee income at the Missouri branch campus.

4. For a school having a certificate of approval for the sole purpose of recruiting students in Missouri, the net tuition used for the certification fee computation shall be only that paid, or estimated if initial, to the school by students recruited from Missouri and the fee shall be five hundred dollars (\$500) plus \$.0013 per one (1) dollar of net tuition and fees income (excluding refunds, books, tools, and supplies) not to exceed five thousand dollars (\$5,000).

(I) Security Deposit. Each proprietary school must file a security deposit with coverage consistent with the statutory requirements of section 173.612, RSMo.

1. The security deposit shall be executed on the prescribed form provided by the department for that purpose. The security deposit shall cover all facilities and locations *[of the school in the state of Missouri]* **included within the certificate of approval issued by the Missouri Coordinating Board for Higher Education** and shall clearly state that it covers the school and **all locations and** agents of the school.

2. Any bonding company must be approved by the Missouri Department of Insurance, Financial Institutions and Professional Registration.

3. The amount of the security deposit shall be ten percent (10%) of the preceding year's gross tuition but, in no event, shall be less than five thousand dollars (\$5,000) nor more than one hundred thousand dollars (\$100,000), except that the school may deposit a greater amount at its own discretion.

4. The school may comply with the security deposit requirement through any of the following three (3) methods, at the discretion of the school: performance surety bond, irrevocable letter of credit, or cash bond secured by certificate of deposit.

5. The amount of the security deposit required must be computed and compliance verified with each annual application for certification. Written verification of compliance with the security deposit requirement of the authorizing statute must be presented prior to the issuance of a certificate of approval. Failure of a school to post and maintain the required security deposit may result in denial, suspension, or revocation of certification to operate or the school being placed on probation.

6. Any school that operates two (2) or more main campuses in the state may combine, or report separately, gross tuition for all locations for the purpose of determining the annual security deposit requirement. However, if the combined gross tuition calculates a security deposit requirement in excess of the one hundred thousand dollars (\$100,000) maximum, the gross tuition shall be reported separately, and the requirement calculated separately.

7. The security deposit requirement for a branch campus operated in Missouri by an out-of-state school shall be computed solely on the basis of applicable tuition and fee income at the Missouri branch campus.

(5) Fees.

(A) Fees should be made payable to the Missouri Department of Higher Education.

(B) All fees are non-refundable.

(C) The following fees shall be paid:

1. Initial Application for
Certification (to be
credited toward the
certification fee) \$200
2. Initial Application for
Exemption \$ 50
3. Application to Establish a
Branch Campus \$100
4. Application to Establish an
Extension Site \$ 50
5. New Program Review
(Certificate) \$100
6. New Program Review
(Associate) \$200
7. New Program Review
(Bachelor and Graduate) \$500
8. Substantive Change Review
(Certificate) \$ 50
9. Substantive Change Review
(Associate) \$100
10. Substantive Change Review
(Bachelor and Graduate) \$250
11. Change of Ownership,
Name, Location \$100
- 12. Continuing Education (up to fifteen programs)**
\$100
- 13. Continuing Education (more than fifteen programs)**
\$500
- [12] 14. Student Record Verification
(per copy) \$ 10
- [13] 15. Late Fee (per day) \$ 10

A. A late fee of ten dollars (\$10) per day exclusive of Saturday, Sunday, and holidays, not to exceed a maximum of one thousand five hundred dollars (\$1,500), will be assessed on certified schools that fail to respond, within a time frame to be stated in official correspondence, to the department's request for information or documentation related to recertification, grievances, department site visits, or probation.

B. The late fee may be waived in whole or in part at the discretion of the department.

(D) Unaccredited degree-granting schools seeking initial certification to operate in Missouri may be required to undergo a pre-certification site visit by department staff and external consultants with expertise in higher education. The applicant school is responsible for all reasonable costs associated with the site visit.

(E) Certified schools are responsible for travel expenses for all members of a department on-site review team when such review is scheduled in response to concerns raised by accreditors, students, or the general public.

(6) Certification Standards. The following standards are established as minimum requirements that must be met **and maintained** in order for a school to be issued a certificate of approval to operate in Missouri. As determined by the Coordinating Board for Higher Education, compliance with these standards shall be demonstrated and verified in the application for certification to operate and are subject to review and further determination by the department at any time.

(A) Institutional Standards.

1. The school must have an exact physical location or locations.

2. The school must have an official name. A certificate of approval shall not be issued to a school if the name of that school, whether initially proposed or changed after establishment, is—

A. Identical to the name of an existing certified school or a public or independent college or university in Missouri; or

B. Deemed, by the department, to cause confusion of identity among the lay public.

3. The **mission and** purpose of the school shall be legitimate and acceptable educationally and shall be supported by the operations and programs of the school.

4. The physical plant and equipment of the school shall be commensurate in size, accommodations, and condition to the purpose and programs of the school, **including the methods through which education and training are delivered.**

5. The learning resources of the school, such as educational equipment, computer hardware and software, library holdings, and telecommunications equipment, shall be sufficient to meet the educational objectives of all courses and programs.

6. The school must be in current compliance with all pertinent ordinances and laws relating to the safety, health, and security of the persons on the premises.

7. All **information provided by the school, including** media advertising and other informative or promotional materials, including those printed, published, recorded, or presented, descriptive of the school shall—

A. Truthfully represent the characteristics of the school;

B. Include the name of the school and shall specify either the school mailing address, the telephone number, or both;

C. When referencing Missouri certification status, only refer to itself as being “certified to operate” or “approved to operate” by the “Missouri Coordinating Board for Higher Education” or the “Missouri Department of Higher Education”; and

D. Not be deceptive or misleading, as determined by the department, such as by—

(I) Stating in advertising or other materials that the school, its programs, certificates, or degrees are accredited, certified, or approved by the Coordinating Board for Higher Education, the Department of Higher Education, or by the state of Missouri or any of its agencies;

(II) Using employment or want ad sections or services of any newspaper or advertising media for purposes of student recruitment;

(III) Stating in advertising or other material that the school *[is]* **or its programs are** accredited by any organization that is not an accrediting agency officially recognized by the United States Department of Education **or the Council on Higher Education Accreditation**;

(IV) Omitting or concealing any material information that obscures a truthful description of the school, its programs, or its services; or

(V) Making any statement that cannot be verified or documented by the school.

(B) Program Standards.

1. Program review. The instructional programs of the school must legitimately support the stated purpose of the school and the school must demonstrate that each course of instruction meets its stated objectives, showing that the following are appropriate to the award designation and discipline:

A. The study discipline of a degree program shall be identified and verified to be generally accepted in American higher education as a legitimate area of degree study;

B. The study discipline of a nondegree program shall be identified and verified as legitimate preparation and training for its vocational or academic objective; and

C. Any award granted shall be on the basis of study content and achievement requirements that shall be deemed by the department to be reasonably equivalent to study content and achievement requirements commensurate with the designated level of award, as generally applied at institutions of higher education and/or the vocation for which it prepares.

(I) Study content and achievement requirements must demonstrate satisfaction of this standard through the following:

(a) Level of the program, including its range and scope of courses;

(b) Content of courses, including the type, depth, breadth, and sequence of courses; and

(c) Duration of the program, including minimal instructional length at the school.

Except as specifically determined otherwise by the department, minimum instructional length shall be twenty-five percent (25%) of similar programs for nondegree and undergraduate degree programs and seventy-five percent (75%) for graduate and professional degree programs.

(II) Demonstration of such equivalence may be established through **inclusion of the program within the scope of** accreditation by national or regional accrediting agencies recognized by the United States Department of Education **or the Council on Higher Education Accreditation**.

D. No earned degree or certificate may be given, awarded, or granted in the absence of an instructional component offered and conducted by the school **or through demonstration of academic or skill competency sufficient to meet criteria established for such purpose by the school**.

2. Program disclosure. The school shall maintain and provide each student in published or printed form, usually through a dated school catalog, the following information for each program and course of instruction offered. The information also shall be provided to prospective students upon request.

A. An official statement of the school's and each program's objectives.

B. Specific titles and descriptions of program content or competency, including, where appropriate, course descriptions.

C. Explanation of evaluation and completion requirements for each program, including:

(I) Specific grade, credit hour, clock hour, and/or other performance achievements required for satisfactory completion as appropriate to each program;

(II) Appropriate definitions of the measures of progress described in part (6)(B)2.C.(I) of this rule;

(III) Specific methods by which program requirements may be met through study at another institution, for work experience or other equivalency, for testing out, or for credit earned on any basis other than instruction offered by the school;

(IV) Explanation of the system of evaluation to include:

(a) Definitions and application of grading methods;

(b) Policies and procedures for monitoring academic progress, including achievement requirements and pertinent time frame; and

(c) Expectations of consequences for failure to maintain satisfactory academic progress, including probation, suspension, or termination; and

(V) Exact designation of the certificate or degree bestowed upon satisfactory completion of each program.

D. The **expected** length of each program and course stated in definable units such as hours, days, weeks, months, and/or terms.

E. Explanation of the instructional method to be employed (classroom, laboratory, independent study, supervised research, supervised internship or externship, etc.) for various stages of the instruction.

F. If applicable, explanation of instructional methods, achievement evaluation, technical requirements, and other policies unique to the delivery of instruction via distance media.

G. As applicable, the schedule of classes, including dates and times of meetings.

3. Earned and honorary awards.

A. No earned certificate or degree may be given, awarded, or granted solely on the basis of payment of tuition or fee, credit earned at another school or schools, on the basis of credit for life experience or other equivalency, on the basis of testing out, on the basis of research and writing, or solely on the basis of any combination of these factors.

B. No honorary degree may be given, awarded, or granted by any school that does not give, award, or grant an earned degree.

C. No fee or other charge may be assessed for giving, awarding, or granting an honorary degree.

(C) Personnel Standards.

1. The school must have a formal governance structure consistent with its form of ownership or corporate identity that is capable of adequately directing, administering, and operating the school **in a manner consistent with the mission and purpose of the school** and is capable of developing and maintaining its instructional programs.

2. The school must have sufficient administrative, instructional, and support personnel based on **the instructional programs offered**, its student enrollment and relative needs for educational and support services. **Administrative personnel are expected to have prior experience or training in postsecondary education.**

3. Instructional personnel, defined to include those who train or deliver instruction as well as any personnel that measure, assess, or evaluate student achievement, shall minimally meet the following qualifications:

A. A combination of educational and experiential qualifications in excess of the level of instruction on which they are instructing; and

B. Shall have relevant qualifications, training, and experience in the subject or discipline area in which they are instructing.

C. For instructional personnel in skill based areas, greater weight may be given to experiential qualifications as appropriate to the program objectives. For academic and degree level programs, education experience and background will be considered the primary qualifications.

(D) Financial Standards.

1. The school must have a sound financial structure with sufficient resources for its continued operation, as determined by the department.

2. The school must provide financial statements, as requested by the department, indicating sufficient current assets are available to meet current operational liabilities and related obligations.

[2] 3. The school must demonstrate financial stability and responsibility through reasonably prompt satisfaction of operational financial obligations, its capital indebtedness obligations, its personnel payroll, and its student financial refund obligations.

[3] 4. The school must have the required financial security deposit, on forms provided by the department, on file pursuant to the provisions of section 173.612.2.(3), RSMo.

[4] 5. If applicable, the school must administer governmental student financial aid, including both grants and loans, awarded through or by the school, in compliance with all applicable law and regulations.

(E) Student Cost Standards.

1. Cost disclosures. The school must maintain, through a catalog or other printed or published informative material, and make available to students and prospective students, full disclosure of any and all financial charges to the students, including:

A. Tuition;

B. Special fees;

C. A reasonable estimate of required charges for books, equipment, materials, tools, services, and other non-incidental educational supplies or charges, whether or not made by the school but required for program completion;

D. Charges for room and board provided by the school;

E. Information on payment policies and procedures; and

F. Information on availability of and procedures to apply for student financial aid **offered by or through the school**, whether available from public and/or private sources.

2. Cancellation policy. The school must provide for a period during which an enrollment or admission agreement may be cancelled by the student with refund of all monies paid.

A. That cancellation period shall not be less than three (3) days, exclusive of Saturday, Sunday, and holidays.

B. The enrollment agreement shall contain a clear statement of the cancellation policy and procedures.

3. Refund policy. The school must have a fair and equitable student tuition refund policy, as determined by the department.

A. The enrollment agreement shall contain a statement of the refund policy and the formula or rules for calculation of refunds due to students withdrawing or whose enrollment is otherwise discontinued.

B. The tuition refund policy must specify fees or other expenses that are nonrefundable beyond the period of cancellation as described in paragraph (6)(E)2. of this rule.

C. The refund policy must specify a maximum time lapse for the refund to be made and any conditions under which there would be no refund.

D. The school must also disclose to the student any conditions under which the refund would be made to a person other than the student.

E. Unless variation is authorized by the department based on program length or cost, fair and equitable shall mean provision of a reasonable refund formula through at least one-half of the enrollment period.

(F) Student Services Standards.

1. The school shall maintain and fairly and equitably enforce the following policies and procedures:

A. Admission procedures and requirements which reasonably assure that the students admitted are capable of achieving and informed concerning the qualifications, competency levels, and/or proficiencies necessary to achieve the stated goals of the instruction offered and which are nondiscriminatory in their application;

B. Conduct, dress, attendance, grievance, and other policies governing students during their enrollment and the expectations of reprimand, punishment, or termination for violation of any policies;

C. A formal policy and procedure for students to withdraw from a program of instruction or the school; and

D. A formal policy and procedure for the issuance of transcript records, including disclosure of any associated fees.

2. The school must provide all students through a catalog or other printed or published informative material full disclosure of the following. The information also shall be provided to prospective students upon request.

A. Admission requirements and procedures for applying for admission.

B. Information on conduct, dress, attendance, grievance, and other policies governing students during their enrollment and the expectations of reprimand, punishment, or termination for violation of any policies.

C. Accurate description of instructional resources, including: the physical facility, qualification of individual instructional faculty, equipment, and, if applicable, library.

D. Statement of any institutional or program accreditation or approval claimed.

E. Statement of the formal policy and procedure for students to withdraw from a program of instruction or the school.

F. Description of job placement assistance, counseling, or other related services available to students.

3. Enrollment agreement. The school, through a written enrollment agreement, shall maintain and make available to all students, upon acceptance or enrollment, disclosure of the following:

A. The program in which the student is enrolled;

B. The beginning date of instruction;

C. Length of the period of enrollment, defined to be the time to which a student commits for completion of a course or program;

D. The cost of all charges made by the school during the period of enrollment;
E. Conditions of payment, meaning a description of when payments to the school are due and for what amount, regardless of the sources of funding, and additional fees for alternative payment plans;

F. The cancellation policy maintained in compliance with this rule;

G. The refund policy maintained in compliance with this rule;

H. Signature of the student and the date of signing; and

I. Signature of an authorized school representative and the date of signing.

4. Transcript. The school shall maintain an individual transcript record for each student currently or formerly enrolled at the school. Unless the transcript is destroyed by an act of nature, the institution may not refuse to issue a transcript on a student's written request, except for the reason of student nonpayment of a financial obligation to the school. The transcript shall minimally include the following:

A. Full name of the student;

B. Name and address of the school;

C. Notation of each course attempted or completed, including the term and date of the course, credit or contact hours attempted, credit or contact hours earned, and grade assigned;

D. Exact award conferred, if applicable;

E. Date of award conferral, if applicable;

F. Notation and date of withdrawal, if applicable; and

G. Upon issuance of an official transcript, the name, title, and signature of the school official authorized to issue the transcript and the date of issuance.

(7) Information and Data Standards. Full compliance with all data and information requests and the submission of all data forms and required statements of the Coordinating Board shall be requisite to the issuance of a certificate of approval to operate, notwithstanding that a certificate of approval may be denied, revoked, or suspended on the basis of data and information submitted **or willfully omitted**, or for willfully submitting incorrect data. In order to be in compliance with the data and information requirements of the certification process, the school shall maintain, in addition to information disclosures described elsewhere in this rule, the following information, which shall be available for submission to and/or examination by the Department of Higher Education.

(A) Institutional Information and Data.

1. The name of the school, current telephone number, current mailing address, any Internet addresses maintained by or for the school, the school's physical address, and date of school establishment.

2. The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation, or non-Missouri public, along with the names, if applicable, of those persons holding a ten percent (10%) or more ownership interest in the school.

3. As applicable, explanatory statements of and documentation for any corporate governance body or structure that directs or administers the school.

[3] 4. Verification of the school's accreditation by any national or regional accrediting entity and verification of any licensing or approval by a state or federal governmental agency.

[4] 5. Assurances, and documentation, of compliance with all pertinent ordinances and laws relating to the safety, health, and security of persons on the school premises.

[5] 6. Sample copies of all media advertising and printed or published materials, including Internet and other electronic publications, descriptive of the institution and employed within the past year.

[6] 7. Description of the school's instructional, administrative, and support facilities located in Missouri.

[7] 8. The peak enrollment and the total student enrollment for the most recently completed calendar, fiscal, school, or other year as designated by the department.

(B) Program Information and Data.

1. For each instructional program offered, a program outline containing, at a minimum, the following information:

A. Specific title of the program;

B. The designation of the certificate or degree granted upon completion;

C. The objective academic or vocational educational outcomes for the program;

D. Requirements for admission to the program;

E. Requirements for completion of the program, including the specific courses, grade achievement, and other requirements, described, as applicable, in defined terms of clock hours, credit hours, and/or performance requirements;

F. The length of study, stated in calendar terms such as days, weeks, months, or years, which reasonably describes the expected program length, as well as any provisions for variation from this length and any associated variance in cost;

G. Academic and performance policies for evaluation, grading, satisfactory progress, and attendance for the program;

H. The method of instruction by which the program requirements may be earned, including the specific courses or other required units that may be met by study at another institution, for work experience or other equivalency, for testing out, or for credit earned on any basis other than instruction offered by the school;

I. The teaching methodologies employed by the program, including the specific uses of classroom, laboratory, correspondence, independent study, supervised research, supervised internship or externship, electronic telecommunication, and other methods of instruction;

J. For each distinct course of instruction required or available as a part of the program, the specific course title, objective or competency sought, instructor(s), the number of credit or clock hours awarded *[upon]* **or other measurement system used to establish** completion, and a description of the course content; and

K. Individual and aggregate information on student enrollment, completion, and employment.

2. Description of the procedures for implementing policies of evaluation, grading, academic progress, attendance, conduct, and grievance, and records demonstrating the application of these policies.

3. Copies of the current or most recent schedule of courses of instruction.

4. As applicable, a statement as to the policy by which a credit or contact hour is defined for institutional application in determining credit or contact hour values for courses and program completion. **If the program uses another measurement system to monitor progress and completion, a definition of that system and how it is used in measuring program delivery.**

(C) Personnel Information and Data.

1. The names and titles of all administrative and instructional personnel employed by the school and a resume of the education and employment experience for each person so employed.

2. The names, titles, addresses, and telephone numbers of the agents of the school, along with the geographic area of the operation of each agent.

3. As applicable, explanatory statements of and documentation for any corporate governance body or structure that directs or administers the school.

4. A financial statement displaying the assets, liabilities, and other financial categories of the school and/or its parent entity.

(D) Financial Information and Data.

1. Verification of compliance with the security deposit requirement under the authorizing statute and this rule.

2. The fiscal year used for the school's operation.

3. A financial statement showing, in addition to other standard revenue and expenditure categories, gross tuition, fees, and income from other charges made to students for the last completed fiscal year, certified by the school owner or the school's chief administrative officer.

(E) Student Cost Information and Data.

1. Catalog or other printed or published information for disclosure of financial charges to students and records demonstrating the application of that printed or published information.

2. A statement of the refund policy of the school and records of the application of that policy.

3. A statement of the cancellation policy of the school and records of the application of that policy.

(F) Student Services Information and Data.

1. Transcripts of the records of student achievement, including all degrees, certificates, or other awards granted, and evaluation of all students, past and present, enrolled at the school, whether or not completing the program of instruction shall be maintained permanently, and in accordance with record storage requirements in subsections (8)(C) and (8)(D) of this rule.

2. The following student records are to be maintained for a reasonable length of time, minimally three (3) years after a student has graduated, withdrawn, or terminated enrollment, or longer as mandated by federal and/or state policies, procedures, or statutes:

A. Records of the application of each student for enrollment and the decision made on that application;

B. Records of the completion of an enrollment agreement by each student as described in paragraph (6)(F)3. of this rule;

C. Records of all financial charges to each student and payments made by or on behalf of the student;

D. Records of all financial aid awarded to or obtained by each student, including governmental grants and loans, and the application of those funds to payment of student charges and/or refunds made to the student or the funding source;

E. Records of all disciplinary actions taken against individual students for their violations of school policies on attendance, conduct, dress, academic progress, and any other policies, as well as records of all associated grievance proceedings, as maintained in compliance with this rule;

F. Records on each student withdrawing from the school demonstrating application of the school's withdrawal policy including a notation of that withdrawal on the student transcript;

G. Records of job placement and employment of those students graduated; and

H. Files of any other student records required by this rule.

(8) Operating Standards.

(A) The certificate of approval issued by the Coordinating Board indicating a school's approval to operate in compliance with sections 173.600 to 173.619, RSMo, and the provisions of this rule shall be, at all times during the term of its validity, displayed in a conspicuous place on, and only on, the premises listed on the face of the certificate of approval so that persons visiting the premises may readily see the certificate of approval.

(B) Any school that closes or whose certificate of approval is suspended, revoked, or not renewed shall, on the approval of the department, take one (1) of the following actions:

1. Make partial or full refund of tuition and fees to the students enrolled;
2. Continue operation under a temporary certificate until students enrolled have completed the program for which they are enrolled;
3. Make arrangements for another school or schools to complete the instruction for which the students are enrolled;
4. Employ a combination of these methods in order to fulfill its obligations to the students; or
5. Implement other plans approved by the department.

(C) A school must maintain a location or locations for all student records, including the student transcript, for both current and former students, that can reasonably assure their proper security, protection, and accessibility.

(D) In the event a school terminates its operations, it must file or make arrangements to file all student transcripts *[and financial account records,]* in paper and/or electronic form, in an appropriate permanent repository approved by the department within fourteen (14) days of the termination date. Failure to do so shall result in forfeiture of the security deposit as required by section 173.612, RSMo.

(E) In the event a school ceases operations without meeting refund, teach out, or record storage obligations, the school may forfeit the security deposit as required by section 173.612, RSMo. The department may utilize proceeds from the security deposit to indemnify students or enrollees suffering a loss or damage or to secure student records as a results of the school's noncompliance with any statutes or regulations pertaining to certification to operate.

[E] (F) Scope of Certificate of Approval.

1. Branch campuses and extension sites of Missouri schools.

A. Application for a certificate of approval to operate shall be made by and through a location designated as the main campus of a school indigenous to Missouri. A certification application shall be made by a main campus on behalf of its branch campuses. The application shall identify all locations proposed to be operated by the school.

B. All certificates of approval to operate shall specify the instructional locations and program(s) of instruction for which the certificate is valid. In addition to the certificate issued to the main campus, certificates of approval to operate shall be issued only for those locations and programs defined and listed in the annual application for certification as branch campuses.

C. Approval to operate locations as extension sites, as defined and listed in the annual application for certification, shall be extended from the certificate of a main or branch campus.

D. The certification to operate of the main campus or any of its branches or extensions may be denied, revoked, suspended, or placed in a status of probation. Such action may be deemed by the department to apply to all locations under the jurisdiction of that certificate of approval to operate.

2. Franchises of Missouri schools.

A. All locations at which instruction is proposed to be offered by a franchisee of a franchisor approved to operate shall be deemed a location within the scope of such franchisor's approval, provided that the franchisor provides the course curriculum and guidelines for teaching at each location and that a single location is identified as the principal facility for record keeping.

B. Denial, revocation, or suspension of certificates of approval to operate for a franchisor shall be deemed to apply to all franchisee locations. The certification of an individual franchisee (as listed on the franchisor's application for certification) may be denied, revoked, suspended, or placed in a status of probation for just cause.

3. Changes in physical location.

A. The department must be notified at least thirty (30) days prior to the effective date of proposed changes in or additions to the location(s) of the school operations.

B. Such changes shall not be effective except on review and authorization by the department.

C. As a condition of authorization for the implementation of changes and additions of location under the school's certificate to operate, accredited schools must provide written documentation of the approval of such changes by the accrediting association.

4. Programmatic additions, discontinuances, and revisions.

A. The department must be notified at least thirty (30) days prior to the effective date of non-substantive programmatic additions, discontinuances, and revisions (including but not limited to changes in name, length, cost, or objective).

B. Substantive revisions to existing programs of instruction and the initiation of proposed new program offerings must be submitted for review in the format established by the department. The school must demonstrate that revised and additional programs are in compliance with certification standards, as described in paragraph (6)(B)1. of this rule, in order for these programs to be approved for inclusion within the scope of the certificate of approval. Such changes shall not be effective except on authorization by the department.

C. As a condition of authorization for the implementation of programmatic changes under the school's certificate to operate, accredited schools must provide written documentation of the approval of such changes by the accrediting association.

D. Schools must submit a complete proposal to the department at least ninety (90) days prior to implementation of a new program. Incomplete proposals will be returned without review. A complete proposal must include at least the following, as prescribed by the department:

- (I) A signed letter of notification;
- (II) A complete new program request form;
- (III) All required new program request form attachments; and
- (IV) Payment of any required fees.

E. Schools must submit a complete proposal to the department at least sixty (60) days prior to implementation of a substantive change to an existing program. Incomplete proposals will be returned without review. A complete proposal must include at least the following, as prescribed by the department:

- (I) A signed letter of notification;
- (II) A complete program revision request form;
- (III) All required program revision request form attachments; and
- (IV) Payment of any required fees.

F. Upon receipt of a complete proposal for a new program or a substantive change to an

existing program, the department will provide an acknowledgement to the school that includes the official date of receipt.

G. The department must provide the school with a written response to a proposal for a new program within ninety (90) calendar days or a substantive change to an existing program within sixty (60) calendar days. The response may notify the school of final approval, tentative approval, or additional information that must be submitted to complete the review. If the response is not provided within the required time frame, the school may offer the program until the department completes its review and identifies a substantive issue or issues that need correction.

H. If the department fails to provide a written review within the time frame established in paragraph (8)(E)4.G. of this rule, the department will notify the school of the results of the review within ninety (90) days of the expiration of the initial time frame. The school will then have ninety (90) days from that notice to correct identified deficiencies without ceasing to offer the program. The school must cease offering the new or revised program if it fails to make the required corrections within the ninety- (90-) day time period.

5. Continuing education.

A. Certified schools may offer continuing education upon approval by the department and payment of a fee. Branch campuses and extension sites will be approved to offer the same continuing education as the main campus. Fees will be charged to the main campus only.

B. Certified schools may consolidate all qualifying continuing education offerings on the official program inventory under the title "Continuing Education." Schools are required to submit to the department a list of all continuing education to be offered during the upcoming certification period and pay an annual fee. Failure to submit a list of continuing education with the annual fee may result in denial of approval to offer continuing education for the next certification period.

C. Certified schools holding recognized regional or national accreditation must provide documentation verifying approval of the continuing education by the school's accrediting body or documentation from the accrediting agency indicating the school is not required to obtain approval as the continuing education is outside the scope of accreditation.

D. Certified schools must disclose in school publications the continuing education is not offered for academic credit, and may not be accepted in transfer to another postsecondary institution.

(I) Accredited schools must disclose in school publications if the continuing education is not within the scope of accreditation.

(II) School publications must include all pertinent policy disclosures, costs, and any equipment or technological requirements for participation in continuing education.

E. Continuing education offered by certified schools at no cost to the student, including employer-sponsored instruction or training available only to employees, is not required to be included on the annual program inventory submitted to the department.

[F] (G) Change of Ownership.

1. A certificate of approval is nontransferable. A change in the sole proprietor of a school, a change in the majority interest of general partners of a partnership owning a school, or a change in a majority stock ownership of a school shall be deemed a transfer of ownership.

2. Within thirty (30) days of such transfer the new owner shall make application for a new certificate of approval on application forms as determined by the department.

3. This application shall be processed like an initial application except the Coordinating Board may issue a temporary certificate to be effective for a maximum of sixty (60) days if the chief administrator furnishes a written statement asserting that all conditions set forth in the rule are being met or will be met before offering training or education.

4. Failure to make application to the department, when a change of ownership occurs, shall be grounds for placing a school on probationary status or for suspension, revocation, or denial of a certificate of approval.

[G] **(H)** Change of School Name.

1. The department must be notified at least thirty (30) days prior to the effective date of proposed changes in the official name of a school. Name changes shall not be effective except on authorization by the department.

2. As a condition of authorization for the implementation of a name change under the school's certificate to operate, accredited schools must provide written documentation of the approval of the change by the accrediting association.

[H] **(I)** Except as pursuant to the initial approval to operate, a certificate of approval will not be issued to any school that has reported no student enrollments during the previous certification year. A school having a full certification year without student enrollments shall be deemed as not being a school eligible for certification.

(9) Certification of Out-of-State Institutions.

(A) An out-of-state institution is defined as any school not indigenous to Missouri seeking to establish or to maintain a physical presence within Missouri for either the purpose of operating a branch campus of that school or the purpose of recruiting students to enroll in the school.

(B) Out-of-state schools must have continuously operated for a minimum of two (2) years prior to application to operate in Missouri, be licensed or approved by the other state, territory, District of Columbia, or national government and the requirements for approval or licensure in the other state or political entity must be substantially equal, as determined by the department, to those in force in Missouri at the time the application for approval is filed.

(C) The department may give faith and credit consideration to an out-of-state accredited school's accrediting association and to approval by other governmental agencies, including certification or licensing approval by another state. The department may waive any part of the certification procedure for reason of such accreditation or approval.

(D) Operating a Branch Campus.

1. In order to operate in Missouri, an out-of-state institution must comply with the same standards and procedures as are applicable to institutions indigenous to Missouri and must be annually certified as approved to operate, **except as provided elsewhere in this rule for two-year certification.**

2. Each branch campus where, from, or through which an out-of-state school operates in Missouri must be independently certified even though those sites are branches of the parent non-Missouri institution. Separate applications must be submitted for each branch campus and all application information must be specifically for that site and not for the non-Missouri parent institution.

3. Each branch campus where, from, or through which an out-of-state school operates in Missouri must designate in the application a resident director in order to be eligible to be certified to operate.

4. Application forms for annual **or biennial** certification and follow-up communications, including the issuance of the certificate, shall be distributed by the department directly to the designated resident director of each branch campus **of an out-of-state school operating** in Missouri. This procedure does not prohibit the director of the Missouri site from forwarding the mailings to the parent institution for processing nor does it prohibit the payment of certification fee and deposit of security by the parent institution; however, the institution must comply with all closing dates and deadlines.

(E) Operating for Recruiting Purposes Only.

1. All non-Missouri schools maintaining a physical presence in Missouri for the purpose of recruiting students to attend the non-Missouri school must be certified to operate. Physical presence, in the context of recruitment operations, shall mean any address, physical location, electronic device, or telephone number within the boundaries of the state of Missouri from which promotional material is distributed or recruitment effort initiated and/or to which potential or prospective students may inquire or respond. Physical presence does not include advertising through printed or electronic media as long as the initiation for that advertising is not within this state or the advertising does not identify any Missouri presence.

2. In order to be certified to operate in Missouri for recruitment purposes, an out-of-state institution must comply with the same standards and procedures as are applicable to a Missouri institution and must annually apply for and receive a certificate of approval.

(10) Probation, Suspension, and Revocation of a Certificate of Approval.

(A) Probation. A school may be placed on probation for reasons of noncompliance with sections 173.600 through 173.619, RSMo, or for noncompliance with the provisions of this rule. Probation provides a school with the opportunity to attain compliance within a given time limit or to provide evidence or clarification of unclear points regarding compliance with specific items. Probation shall be governed by the following criteria:

1. The Coordinating Board shall place a school on probation by notification in writing for a fixed period with a termination date. Termination dates may be extended on decision of the Coordinating Board if the school has not attained compliance or upon request of the school. The school may continue to operate during any probationary period;

2. The notice shall specify the item or items of noncompliance with sections 173.600 through 173.619, RSMo, or this rule and shall include specific criteria and/or procedures for the school to be removed from the probation;

3. Failure of a school to comply with statutory requirements or the requirements of this rule by the termination date of the probation shall, on judgment and decision of the Coordinating Board, result in one (1) of the following actions:

A. Suspension of the certificate of approval; or

B. Revocation of the certificate of approval; and

4. A school in compliance with the specified probationary requirements may request, in writing, removal from probationary status prior to the termination date of the probation.

(B) Suspension. A certificate of approval or a temporary certificate of approval may be suspended for up to twelve (12) months for noncompliance with provisions of sections 173.600 through 173.619, RSMo, or the provisions of this rule, and the following criteria and/or procedures shall apply. The purpose of suspension is to give the school the opportunity to correct the items of noncompliance within a set period of time.

1. The Coordinating Board shall suspend a school's certificate of approval or temporary certificate of approval by notification in writing for a fixed period with a termination date. Termination dates may be extended on decision of the Coordinating Board if the school has not attained compliance or upon request of the school; however, in no case shall the total time of suspension exceed twelve (12) months.

2. The notice shall specify the item or items of noncompliance with sections 173.600 through 173.619, RSMo, or this rule and shall include specific criteria and/or procedures for the school to be removed from suspension.

3. Failure of a school to comply with statutory requirements or the requirements of this rule by the termination date of the suspension shall, on judgment and decision of the Coordinating Board, result in revocation of the certificate of approval.

4. A school in compliance with the specified suspension requirements may request, in writing, removal from suspended status prior to the termination date of the suspension.

5. The school may appeal an assignment of suspension to the Administrative Hearing Commission.

(C) Revocation. The Coordinating Board may revoke the certificate of approval or the temporary certificate of approval of any school for noncompliance with the provisions of sections 173.600 through 173.619, RSMo. Revocation of a certificate to operate shall be governed by the following criteria and/or procedures:

1. The Coordinating Board shall revoke a school's certificate of approval or temporary certificate of approval by notification in writing;

2. The notice shall specify the item or items of noncompliance with sections 173.600 through 173.619, RSMo, and shall specify an effective date of the revocation, revocation upon the completion of operational functions as may be prescribed by the Coordinating Board, or both an effective date and completion of operational functions;

3. Revocation of a certificate of approval shall not forgive a school of full compliance with the requirements contained in this rule which are applicable to any school ceasing operations, including, but not limited to, making refunds to students, completion of instructional programs of students, and the reposit of student instructional and financial records; and

4. The school may appeal a revocation to the Administrative Hearing Commission.

AUTHORITY: sections 173.600–173.619, RSMo 2000 and Supp. 2012. Original rule filed March 13, 1985, effective July 1, 1985. Rescinded and readopted: Filed Oct. 16, 1991, effective Feb. 6, 1992. Rescinded and readopted: Filed Oct. 27, 2000, effective April 30, 2001. Amended: Filed Sept. 13, 2012, effective Feb. 28, 2013. Amended: Filed Feb. 10, 2016.*

**Original authority: 173.600-173.619 see Missouri Revised Statutes 2000 and Supp. 2012.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PUBLIC COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Higher Education, Attn.: Laura Vedenhaupt, PO Box 1469, Jefferson City, MO 65102, by submitting comments electronically via the department website at www.dhe.mo.gov/psc/propcertfeedback.php, or by faxing comments to (573) 751-6635. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*